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| 10/644,567      | 08/20/2003  | Scott G. Walton      | N.C. 84,613         | 6607             |

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 01/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

10/644,567

Applicant(s)

WALTON ET AL.

Examiner

Rodney G. McDonald

Art Unit

1753

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 31 October 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.  
**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☒ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.



Rodney G. McDonald  
Primary Examiner  
Art Unit: 1753

Continuation of 10. Other (including any explanation in support of the above items): From MPEP 1205.02 on Appeals a page should be provided where the related proceedings appendix should be included with an indication of "none" if there are no related proceedings.

i.e. (x) Related proceedings appendix. An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to 37 CFR 41.37(c)(1)(ii). The appendix should start on a new page. If there are no such copies of decisions being submitted in the appeal, then a related proceedings appendix should be included with the indication "none."

The MPEP at 1205.03 may allow the Examiner to correct this in the Examiner's Answer as long as the record is clear that there are no Related proceedings.

i.e. The following are a few other examples where the examiner may accept a brief that has minor non-compliance: (A) If the evidence appendix and related proceedings appendix are missing, but the record is clear that there is no evidence submitted and no related proceedings listed in the related appeals and interferences section, the examiner may accept the brief and state in the examiner's answer that it is assumed that the appellant meant to include both appendixes with a statement of "NONE. "

However the Examiner believes the record is not necessarily clear and will not assume that there are no related proceedings and advises the Applicant to provide a page where the related proceedings appendix should be included with an indication of "none" if there are no related proceedings.